

Zoning - Issues Assumptions Proposals

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Executive Summary

This document is a response to the first draft of the Zoning Redesign proposal as presented by city planners at a public meeting on February 7 and as examined from public documents on the Newton website.

The first sections of this document consider policy questions. For instance:

To what degree is the goal of zoning to preserve and enhance the existing character of Newton's neighborhoods and to what degree is the goal to encourage an increase in residential density and population diversity with fairness across the entire city?

What is good development?

This policy discussion is followed by a carefully considered, detailed analysis of the Zoning Redesign proposal with a primary focus on the Residence Districts. Since many areas in Newton Corner are zoned R3 and since R3 is likely to have strong development impacts under the new regulations, we pay a lot of attention to R3. We consider R1 and R2 in relation to density and diversity issues and we examine the rules for Village Districts since certain limitations may have negative impacts on the Residence Districts and the city as a whole.

At the conclusion of this paper, we consider:

What incentives (policy levers) would encourage "good" development, particularly, with regard to what we see as the increased threat of both tear-downs and rapid development to the future character of Newton Corner?

We then provide a set of **specific proposals for zoning**.

There will be two appendices with related information and data requests.

A great deal of time and effort has gone into preparing this working paper. We hope that you take the time to read it and discuss its contents. Please feel free to contact us with any questions. We look forward to working with you on this in the future.

Introduction

On February 7, 2019, a community meeting was held at the Ciociaro Social Club on Bridge St in Nonantum so that residents of Ward 1 could hear a presentation by representatives of the city planning department about the Zoning Redesign proposal. The residents were then able to ask questions and make comments.

From listening to the presentations, we gathered that some of the objectives of the new zoning regulations are:

1. To preserve and enhance the existing character of Newton's neighborhoods.
2. To design development incentives to encourage "good" choices by developers.
3. To increase residential density in order to lower home costs and encourage diversity in home ownership.

Objective #3 has an implicit assumption that increased residential density will lead to lower home costs and will thereby encourage diversity. It is important to verify this assumption because the facts may not support it.

At the presentation on February 7, the city planners introduced the proposed model for zoning reforms, relying heavily on "patterns on the ground" as the starting point for the reform of zoning laws. This zoning model is based on a 289 page document called the Newton Pattern Book that categorizes the existing buildings of Newton in the context of their neighborhoods. This book is the culmination of very recent planning studies and was released in final form in October 2018.

This paper attempts to develop a framework for assessing the zoning proposals, both in terms of how they will affect the city as a whole and Newton Corner in particular.

Note: In section 1.2 of the Proposed Draft Zoning Ordinance, the city lists 22 purposes for the new zoning proposal. To avoid interrupting the flow, we will list in an Appendix those purposes that map to the three objectives we deduced above from the oral presentation.

What Constitutes "Good Development"?

The very first and we believe, most important question underlying this entire discussion is:

When making policy decisions, do we look primarily to the past for guidance or do we make decisions based upon an informed understanding of current social, cultural, and economic values as they define the city's future needs?

We strongly object to designing a zoning model based primarily on history because that history is, itself, the result of social and economic inequities. To forego the opportunity to redress those inequities and instead to adopt a process that would memorialize them in the future zoning code seems wrong and may lead to greater tensions within the city.

Let's begin with a clarification of terms.

What does "good development" [the result of "good choices made by developers"] look like? I suggest there are two criteria we can use to assess "good" development.

First: Does the proposed development meet "**Within-Neighborhood Objectives**"?

From the neighborhood's point of view, "good" development means preserving the character of the neighborhood, increasing density in a measured and thoughtful manner, adding green space whenever possible, and contributing to the quality of life. No one in

our organization has a blanket opposition to development. Instead, we are looking for development that is responsive to neighborhood concerns, as will be discussed below

Second: Does the proposed development satisfy “**Among-Neighborhood Objectives**”?

From the broader perspective of the city as a whole, “good” development means encouraging a sense of community and common civic purpose among the many villages. This can only be achieved if the actions taken by the city are perceived as equitable across all villages. If the city’s stated objectives are “to increase diversity and density in the city of Newton” but the zoning regulations are seen to limit this development to only a few neighborhoods, this inequity will obviously create resentment on the part of those who bear the burden of the development, especially, if there are few restrictions are placed on the developers in those neighborhoods.

Next, what kind of density do we hope to increase through “good development.”? All “density” is not the same. There can be:

“**Transient Density**” - The availability of small, lower priced rental units that will allow residents to live here for a few years and then move on as their need for more space increases. This type of density is characterized by primarily single individuals or young couples with incomes that allow them to rent at market rates. Some transient renters might also be groups of young people who share an apartment and share the rent.
[See Data Request #1 below]

“**Stable Density**” - The availability of rental units that accommodate families who choose to live here because of Newton’s schools, jobs, and amenities and/or proximity to Boston. These families are likely to remain in the neighborhood, put down roots, and contribute to the quality of life through their social connections.

While it is appropriate to expect levels of transient density to be higher in areas surrounding transportation hubs, it is important to realize that a socially healthy community depends upon a stable population base that is invested in the ongoing life of the community.

To describe this type of community, we would like to use the following terms:

“**Social Infrastructure**” A series of relationships built around a common purpose i.e. commitment to a local school, support for local businesses, enjoyment of common spaces, and a concern for the well-being of neighbors and the neighborhood.

“**Socially Purposed Built Environment**” This term refers to the physical structures that enable residents to enjoy communal interactions - parks in which to appreciate nature, cafes in which to socialize, buildings in which to worship, schools in which to learn, meeting places, athletic fields, and stores/shops that fulfill customary neighborhood needs.

Through their impact on land usage, zoning laws directly affect both the social infrastructure and the socially purposed built environment. Neighborhoods with a high proportion of transient residents do not function in the same way as neighborhoods with a high proportion of stable residents. Similarly, neighborhoods with a strong core of structures devoted to supporting social purposes function differently from neighborhoods that lack such structures.

We think it is important to point out that Newton Corner lost the heart of its “socially purposed built environment” when the Mass Turnpike was built through the commercial center of the village. When considering inequities imposed by past development, this action constitutes a major injury to the neighborhood. The harm was exacerbated when the buildings that had supported local needs were demolished and replaced by the development of non-community oriented businesses on the north side of the Pike. For instance, every other village in Newton has a place where its residents can congregate for coffee except for Newton Corner (south of the Pike).

Two more terms deserve review,

“Density Fairness” - The concept that the burden of increased density should be shared by the entire city and not by the “somewhat developed” zones of the city that the zoning proposal has labeled R3.

In the new zoning maps, the most concentrated zones with R3 designations are Newton Corner, Newtonville, and West Newton - all along the Washington St corridor. The areas with significant sections designated R3 are portions of Newton Centre, Newton Highlands, Auburndale, and Newton Upper Falls. The remaining R3 areas are small pockets.

These R3 areas represented perhaps 10-15% of the residential land area of Newton. The R1 and R2 areas account for the remaining 85-90% of the residential land area. Since, as written in the proposed zoning regulations, there can be little development in R1 and R2 areas, this means that the brunt of residential development will fall on R3. This hardly seems fair.

If “diversity” is the **city’s** goal, then why should the development of affordable housing to increase diversity be concentrated along the margins of the city?

Why not devise a zoning code that would encourage the conversion of some large single family homes into multi-family dwellings in the predominately single family R1 and R2 zones? This would spread the desired density and diversity throughout Newton. The conversion of large single family homes into multi-family dwellings throughout the city is what we call **“Distributed Density”**. This should be one of the goals of the new zoning regulations.

Perhaps Newton should look to Minneapolis for ideas regarding distributed density and affordable housing throughout the city.

<https://www.strongtowns.org/journal/2018/3/29/fourplexes-everywhere-bold-reform-proposed-in-minneapolis>

<https://minneapolis2040.com/>

To simply “normalize” the zoning regulations to coincide with the existing “patterns on the ground” is to accept the legacy of past economic and social disparities and to justify future decision-making processes that will result in increasing these disparities between the R3 neighborhoods (such as Newton Corner, Newtonville, and West Newton) and most of the villages in Newton.

Again, we return to the basic question underlying the zoning process:

“Should policy decisions be based on the consequences of past events or driven by a consensus regarding goals for the city’s future?”

Having set the stage with a discussion of policy questions and the concerns that the current zoning proposals have raised in our minds, we now turn to a more systematic analysis of the zoning proposals. We are most concerned with R3 but as you will see we will need to discuss R1 and R2 on one hand and the Village Districts on the other hand to provide full context and to discuss fairness issues.

As we said above, after the analysis, we will give concrete proposals that we believe will improve the zoning proposals not only for R3 neighborhoods but also for the entire city.

An Analysis of the Differences in Residential Zoning Rules

The Zoning Redesign documents envisions 4 residential zones:

R1 = Residence 1 District

R1: “is composed of neighborhoods characterized typically by larger homes on larger parcels of land”.

R2 = Residence 2 District

R2: “contains quintessentially suburban neighborhoods with ample lawns and single unit homes, developed primarily in the 20th Century in the spaces between Newton’s villages”.

R3 = Residence 3 District

R3: “includes suburban neighborhoods composed of single, two, and three-unit homes, frequently within walking distance to transit and activity centers”. The intent of this district is “to preserve neighborhood character, increase predictability, and integrate homes in two and three-unit buildings into the fabric of the neighborhoods”.

NG = Neighborhood General

NG: “Within a short walk of the amenities, mixture of uses, and transit options found in Newton’s village centers, the Neighborhood General District serves as a transition from the village centers to the adjoining neighborhoods. With easy access to the above amenities, these areas are appropriate for a wider range of housing types, consistent in scale with the neighboring single and two-unit homes, including small multi-unit residential buildings and townhouses, as well as a range of small scale neighborhood-serving commercial spaces.”

As defined, R1 and R2 represent “idyllic” Newton. The building changes permitted by the new zoning code are limited. Increases in density are quite constrained.

As defined, R3 and NG represent the “already developed” residential Newton. The new zoning code permits a much greater range of development in R3 and NG. Further, the constraints on density are rather weak. We see strong forces in play for rapid, dense development in R3 and NG zones, especially, since R1 and R2 are mostly off the table.

Since we in Newton Corner are concerned about the extent and pace of development, the following quote from the R3 rules is illuminating:

“Notwithstanding the above requirements, a new Apartment House or Small Apartment

Building may be established on a lot that does not meet the above criteria by Special Permit.”

In other words, even if the usual R3 constraints on building development would rule out a project, the planning department may issue a Special Permit and let it happen anyway.

You can now begin to see why we have serious concerns with the proposed zoning rules.

Examination of the proposed zoning maps shows that R3 represents perhaps 10-15% of the residential land area and that R1 and R2 represent the remaining 85-90%. The area taken up by NG houses is very small.

The bulk of the R3 is along the Washington St corridor (Newton Corner, Newtonville, West Newton). The other large zones of R3 are in Newton Centre, Newton Highlands, and Newton Upper Falls. There are a few other isolated small pockets of R3.

Since development in the R1 and R2 areas is mostly off the table, we see that residential development in Newton will be forced into R3 and that the planning department is in a position to accelerate that development via Special Permit. We believe:

If the city feels an obligation to promote development, affordable housing, and diversity, the burden of that policy cannot be made to fall on 10-15% of the land area in Newton.

More Details on the Residential Zoning Rules

Let's summarize what can be done under the zoning proposals in R1, R2, R3, and NG zones.

R1 Zoning

The only permitted changes in R1 are the construction of single unit detached residential buildings on individual lots, the contextual modification of such buildings that already exist, or the conversion of an existing building to civic purposes.

There is no mechanism for up zoning R1 to even R2 and there is no provision for allowing zoning to be changed by Special Permit. R1 is almost 100% protected to remain as is.

R2 Zoning

The zoning provisions for R2 are similar to those for R1. The description of R2 contains the following sentence:

“Many of these neighborhoods are remote from the walkable village centers of the City and therefore do not have nearby gathering places, shops, or services.”

Related to that comment, the zoning rules allow certain commercial buildings:

“In limited circumstances, to retain or allow neighborhood serving commercial uses in order to enhance walkability and sustainability.”

There are also special rules for the “House D” building type which is defined as:

“A one-unit house with a large footprint and no more than 1 story. House D building types are best known as Ranch houses – and are characterized by 1-floor living with or without a basement.”

Building a new House D type house is subject to the “500 linear feet” rule which appears for the first time in a zoning restriction:

“The House D building type may only be utilized on a lot if there are at least 3 House D buildings within 500 linear feet, measured from the edges of the front lot line along the street.”

This restriction may however be overridden by a Special Permit.

In summary, R2 is almost fully protected to remain as is. It appears that the zoning rules wish to discourage additional ranch style homes which are the most likely form of single family housing to be affordable. There is little provision for increased density or diversity of population in R2.

R3 Zoning

The zoning provisions for R3 dramatically increase the types of buildings permitted as compared to R1 and R2. Here is the list:

- House B (3.2.4)
- House C (3.2.5)
- Two-Unit Residence (3.2.7)
- Apartment House (3.2.8)
- Small Apartment Building (3.2.10)
- Civic Building (3.2.14)

The parenthesis represent the section numbers in the Zoning Redesign document where the building types are defined.

We will discuss the “500 linear feet” rule for R3 below.

NG Zoning

The zoning provisions for NG further increase the types of buildings permitted as compared to R3. Here is the list:

- House B (Sec. 3.2.4)
- House C (Sec. 3.2.5)
- Two-unit residence (Sec. 3.2.7)
- Apartment House (Sec. 3.2.8)
- Townhouse Section (Sec. 3.2.9)
- Small Apartment Building (Sec. 3.2.10)
- Shophouse (Sec. 3.2.11)
- Small Shop (Sec. 3.2.13)
- Civic Building (Sec. 3.2.14)

NG is as close to being considered part of a village center without explicitly saying that.

The 500 Linear Feet Rule for the R3 Zone

The “500 linear feet” rule for R3 is as follows:

“The Apartment House and Small Apartment Building building types may only be utilized on a lot if there are at least 3 of the same type (apartment house or small apartment building respectively) within 500 linear feet along the street, measured from the lot edge.”

The document continues by stating that approval “requires Site Plan Approval to confirm the above criteria have been met”.

However, there is then the following caveat that *negates* the limited constraints imposed by the “500 linear feet” rule:

“Notwithstanding the above requirements, a new Apartment House or Small Apartment Building may be established on a lot that does not meet the above criteria by Special Permit.”

Given the fact that the approval for “small” buildings will be done by the Zoning Board rather than by the City Council, Special Permits for apartment houses and small apartment buildings may be easily issued with no formal public review by elected officials.

There are so many problems with the above rules that we will need to make a careful list of all of the issues.

1. First there is the question of the general zoning philosophy for growth.

The reasoning apparently goes like this:

If such “apartment” buildings already exist within the neighborhood within 500 feet, adding however many new ones will not change the neighborhood’s “character”.

There are two flaws with this reasoning:

- 1) Significant development of any kind will have consequences for any neighborhood. What is the tipping point for the conversion of single family to multi-unit housing before the neighborhood’s character changes?

- 2) If there are now few if any multi-family units in an R1 or R2 zone, what is the likelihood under current proposals that those neighborhood will ever experience multi-family development and the consequent density and diversity outcomes?

2. The “500 linear feet” rule permits rapid expansion of apartment type buildings.

The same mathematics that predicts the population explosion of rabbits may be used to predict the population explosion of apartment buildings.

Suppose in Year 1, 3 new apartment buildings are built within 500 feet of 3 such existing buildings. Then in Year 2, the radius of such buildings may be extended by another 500

feet. By Year 10, the radius is now $500 \times 10 = 5000$ feet which is about a mile.

In “developer time”, 10 years is trivial. Developers will look at the “500 linear feet” rule and conclude that there is a green light for apartment building development in R3.

3. Once apartment type buildings have entered a neighborhood, the zoning rules make no provision for a cap on the total number of apartment buildings in that neighborhood.

If the “residential” character of current R3 areas which consist mainly of 1, 2, and 3 family homes is to be preserved then it is essential to also insist on a cap on the number of apartment buildings that may be placed inside any square of side 250 feet. We propose:

Cap the number of apartments type buildings in an R3 zone within any square of side 250 feet (1/20 mile). Within any such square, no more than 20% of the land area should have apartment type buildings. This will maintain the character of the neighborhood by retaining at least 80% of the buildings as 1, 2, and 3 unit houses.

The rule should be that once this cap is reached, no Special Permits may be issued for apartment type buildings in that square zone for whatever reason.

Further Subtleties in the Residential Zoning Housing Types

In the house definitions for Residence Districts, the list begins with:

4 types of One-Unit Residences (A, B, C, D)

Two-Unit Residence (3.2.7)

Apartment House (3.2.8)

Townhouse Section (Sec. 3.2.9)

Small Apartment Building (3.2.10)

“commercial buildings”

“civic buildings”

All zones may have “civic buildings”.

New residential units in R1 and R2 may only be chosen from One-Unit Residences.

New residential units in R3 may be chosen from One-Unit Residences plus

Two-Unit Residence (3.2.7)

Apartment House (3.2.8)

Small Apartment Building (3.2.10)

New residential units in NG may be chosen from One-Unit Residences plus

Two-Unit Residence (3.2.7)

Apartment House (3.2.8)

Townhouse Section (Sec. 3.2.9)

Small Apartment Building (3.2.10)

For some time, we were puzzled by the absence of

Three-Unit Residence

in these lists. We therefore looked carefully at the definitions for Apartment House and Small Apartment Building.

Apartment House:

“A small multi-unit residential building with a footprint similar to a one-unit house. An apartment house contains more than 2 units, but the scale of the structure is similar to 1- and 2-unit building types nearby, just with a few smaller than average units.”

Small Apartment Building:

“A small multi-unit residential building. Whether built as a stand-alone building or as part of a complex, small apartment buildings typically are no taller than the peak of the roof of houses and apartment houses in the surrounding neighborhood and about the footprint of two mid-large attached house building types.”

We were stunned to realize that Apartment House includes what is commonly called a 3 family house or 3-unit residence. This “definition” goes against what most people think of as an apartment house. Since the heights of houses in R3 neighborhood are often 2, 2.5, or 3 stories, it is very easy for a 3 family house using 3 floors to fit comfortably into an R3 neighborhood. We do not think restrictions on 3 family houses should be the same as for the larger Apartment House or Small Apartment Building types.

Further, the development of buildings of type Apartment House and Small Apartment Building depends on the “500 linear feet” rule that permits new buildings of this type if there are at least 3 such buildings within 500 linear feet of the proposed location.

The application of the “500 linear feet” rule also depends on whether or not a 3-unit residence is its own building type [Three-Unit Residence] or if a 3-unit residence is subsumed into the two apartment house types.

In the strongest possible terms, we argue that a 3-unit residence must be its own building type: Three-Unit Residence. It will then be impossible to justify the development of larger apartment type buildings with 4 to 14 units based simply on the nearby location of several 3-unit residences.

We must emphasize that defining a Three-Unit Residence type and also redefining the two apartments type to start with 4 units or more is of critical importance to Newton Corner and we believe to the city as a whole.

We believe that for the purposes of zoning regulations, a Three-Unit Residence should be treated the same way as one unit and two unit residences. There should be no need to have highly restrictive rules such as the “500 linear feet” rule.

We believe that this zoning structure will incentivize developers to build more Three-Unit Residences rather than go through the approval processes for larger structures such as an Apartment House or a Small Apartment Building. This zoning rule will be all to the good for promoting the measured growth in density of R3 neighborhoods.

An important additional question is the number of units in an Apartment House or a Small Apartment Building. In the public presentation made to Ward 1, the following constraints were provided:

Apartment House: 3-6 units (up to 8 with incentives)
Small Apartment Building: 3-10 units (up to 14 with incentives)

If our proposal above is accepted, the lower bound 3 would become 4.

In addition, we are unhappy with the idea that the smaller type, Apartment House, can go beyond 6 units, no matter what the incentives. Beyond 6 units, you really have an apartment building, you do not have what we would think of as a house. Therefore, we propose the following alternate constraints:

Apartment House: 4-6 units
Small Apartment Building: 4-10 units (up to 14 with incentives)

In conclusion, we recommend:

Introduce the Three-Unit Residence as an explicit building type. Make the rules for the Three-Unit Residence type be the same as for the one and two unit types.

Change the definition of Apartment House to:

A small multi-unit residential building with a footprint similar to a single unit house. An apartment house contains 4-6 units, but the scale of the structure is similar to 1, 2, or 3 unit building types nearby, just with a few smaller than average units.

Change the definition of Small Apartment Building to:

A small multi-unit residential building that contains 4-10 units. Whether built as a stand-alone building or as part of a complex, small apartment buildings typically are no taller than the peak of the roof of houses and apartment houses in the surrounding neighborhood and about the footprint of two mid-large attached house building types. With special incentives, a small apartment building may be allowed to have up to 14 units.

Conversions and other Development Permitted on Lots with Existing Buildings

The descriptions of R1, R2, and R3 all contain the following sections:

“F. Alternate Lot/Building Configurations

The following alternate lot/building configurations are permitted in the Residence 1 District:

1. Rear Lots (Sec. 3.5.1)
2. Multi-Unit Conversion (Sec. 3.5.2)
3. Courtyard Clusters (Sec. 3.5.3)”

“G. Allowed Uses

Uses permitted in the Residence 1 District are described in Sec. 3.6 and subject to further restrictions as described in each building type.”

The only differences in wording between R1, R2, and R3 are that “Residence 1” is replaced by “Residence 2” or “Residence 3” in the appropriate sections of the zoning proposal.

The implications for R1 and R2 are particularly interesting.

By the zoning rules, if you build a *new* building in R1 or R2, the building must be *one single unit building*.

However, later in time, you may add multiple buildings (via rear lots or courtyard clusters) or you may do a conversion to a multi-unit building.

Let us focus on multi-unit conversion. There are two critical rules:

“A. An existing House A or Civic building type may be altered or renovated to install or increase the permitted number of residential units by special permit in accordance with the procedures described in Article 11.”

“C. The building must have been built at least 10 years prior to the date of application.”

So, a multi-unit conversion requires a Special Permit and it requires a 10 year wait. It is impossible for a developer to build a single unit building and then soon thereafter convert it to a multi-unit building.

These rules mean that the evolution of housing in R1 and R2 into multi-unit buildings is legally possible but will take a very long time to occur. In this way, the traditional single unit nature of R1 and R2 is reinforced by the zoning regulations. These rules resist transitions to higher density and greater diversity.

Apartment Buildings and Multi-Use Buildings

The Small Apartment Building type is introduced in the Residence District discussion and also is used in the Village District discussion. We looked for but did not find any building type for larger apartment buildings. Instead, the Village District discussion introduces the concept of multi-use building with 4 subtypes:

Small Multi-Use Building (4.2.7)

Medium Multi-Use Building (4.2.8)

Large Multi-Use Building (4.2.9)

Tall Multi-Use Building (4.2.10)

Multi-use buildings mandate rental space on the ground floor with non-residential uses. The rules are:

Small Multi-Use Building: A minimum of 50% non-residential uses.

Medium Multi-Use Building: A minimum of 60% non-residential uses.

Large Multi-Use Building: A minimum of 70% non-residential uses.

Tall Multi-Use Building: A minimum of 70% non-residential uses.

This focus on a single type of larger residential property seems like a design mistake. The following article on empty commercial store fronts in mixed-use residential developments provides a serious note of caution for Newton:

<https://www.strongtowns.org/journal/2018/6/5/whats-up-with-all-those-empty-commercial-storefronts-in-new-mixed-use-developments>

This article examines the reasons why the ground floor units often go unrented. These reasons include spaces that are too large and rents that are too high to be affordable for small businesses.

In any event, ground floor units that go unrented do not help a neighborhood. They are a form of urban blight that is literally built into a new building.

We recommend that Newton introduce 4 types of Apartment Building parallel in structure to the Multi-Use Building types in the current zoning proposal:

Small Apartment Building
Medium Apartment Building
Large Apartment Building
Tall Apartment Building

In these building types, there would be no requirement for non-residential rental space on the ground floor. However, such rental space *would be permitted* as determined by the developer in coordination with city planners and the local community. This would be a more practical way to promote limited amounts of valuable non-residential use spaces without the threat of creating a glut of such spaces.

Before giving our explicit proposals, we return to some general issues discussed in the introductory sections.

Incentives (Policy Levers) for Achieving “Good” Development

Returning to the concepts of “Good Development” and “Within-Neighbor Objectives”: What incentives can the city offer to encourage developers to be responsive to neighborhood concerns? We assume that:

Neighborhoods generally place a high value on the following: appealing streetscape (visual coherence among houses), acceptable density, green space and trees, and a sense of community reinforced by the above.

Neighborhoods generally prefer that existing homes be repurposed rather than torn down for new development and that adequate parking spaces exist on the property to comply with the winter on-street parking ban.

To promote “Within-Neighborhood” objectives, the city can develop policies that encourage developers to redevelop properties and minimize tear-downs. Those policies might include:

Changing the law regarding grandfathering properties involving a tear-down. A tear-down should mean starting over. All new buildings should have to conform to current zoning requirements not to those regulations associated with a house that no longer exists.

A house that is gutted should be viewed in the similar way. If during reconstruction most of the exterior siding is removed, the house should be viewed as a partial tear-down. The replaced house should be permitted to be built on the existing footprint. However, if the developer wishes to expand the footprint then the current zoning requirements should apply.

Also, the side set back rules for R3 houses are very tight: 7.5 feet on either side. This is basically too narrow for a driveway. For new houses or redeveloped old houses, the rules should require a side set back of 10 feet on either side of the house.

Finally, houses in R3 should have height restrictions of a 3 story maximum.

Final Questions

There are two additional questions, specific to Newton Corner, that we have not yet addressed:

Public transportation and zoning are closely related, but how do we attract residents who prefer using public transportation to neighborhoods where such options are limited? And how do we attract public transportation (bus routes) to neighborhoods that could potentially provide a steady supply of riders but without the current availability of bus transportation do not yet have those residents? This is a chicken and egg problem . . .

How will the pockets of housing with the NG designation affect the compatibility of new development with the existing built environment of most of the neighborhood? Will it lead to a harmonious integration of building scale and design or the imposition of something upon a neighborhood to which residents may strongly object?

The issue of “**integration**” v.s. “**imposition**” is key to any discussion of density. It speaks to the responsibility owed by government to those they govern.

Concluding Thoughts

It is the responsibility of all - those who govern and those who elected them to govern - to understand what the long-term implications of proposed zoning changes may entail. If we, as citizens of Newton, do not have the ability to influence what occurs within our own neighborhoods, then what rights as residents do we actually possess?

Here are some things we wish to avoid. We do not want high density multi-unit apartment buildings lining the streets. We do not want the density of population to be out of sync with the availability of parking places leading to a chronic shortage of parking spaces for residents. We do not want a homogeneity of housing styles replacing the interesting diversity that we currently enjoy and that provides a visual history of the growth of the neighborhood. We do not want a diminishment of current amount of green space. We do not want the urban blight of empty store fronts in multi-use buildings.

There are also important goals that we support. We believe in good development. We prefer upgrades of houses rather than tear-downs. We certainly expect the population of Newton to increase. We recognize that this will mean a greater density in our own neighborhood of Newton Corner. We also believe that in *distributed density* meaning that the population increases should be spread across the entire city of Newton and not just be concentrated in the 10-15% of residential land area that constitutes the R3 neighborhoods. We believe that the zoning regulations should permit growth but also constrain that growth to occur in moderate stages. We believe in caps in density within any small neighborhood so that no neighborhood will become primarily apartment buildings.

We will now provide a list of specific proposals. Some have already been articulated above and some are derived as a consequence of the analysis that we have done.

Proposals on Building Types

Proposal 1: Introduce the Three-Unit Residence as an explicit building type. Make the rules for the Three-Unit Residence type be the same as for the one and two unit types.

Proposal 2: Modify the Apartment House and the Small Apartment Building types.

Change the definition of Apartment House to:

A small multi-unit residential building with a footprint similar to a single unit house. An apartment house contains 4-6 units, but the scale of the structure is similar to 1, 2, or 3 unit building types nearby, just with a few smaller than average units.

Change the definition of Small Apartment Building to:

A small multi-unit residential building that contains 4-10 units. Whether built as a stand-alone building or as part of a complex, small apartment buildings typically are no taller than the peak of the roof of houses and apartment houses in the surrounding neighborhood and about the footprint of two mid-large attached house building types. With special incentives, a small apartment building may be allowed to have up to 14 units.

Proposal 3: Introduce 4 types of Apartment Building parallel in structure to the Multi-Use Building types in the current zoning proposal:

Small Apartment Building
Medium Apartment Building
Large Apartment Building
Tall Apartment Building

In these building types, there would be no requirement for non-residential rental space on the ground floor. However, such rental space *would be permitted* as determined by the developer in coordination with city planners and the local community. This would be a more practical way to promote limited amounts of valuable non-residential use spaces without the threat of creating a glut of such spaces.

Note that if there is non-residential use space created in one of these Apartment Building types then the height of the ground floor story could be permitted to increase as in the Multi-Use Building type.

Proposals for R3 Zoning

The next proposal is formulated on the assumption that a Three-Unit Residence type has been defined and that an apartment type building is an Apartment House or a Small Apartment Building with 4 or more units.

Proposal 4: Since the creation of apartment type buildings will dramatically affect those in an R3 neighborhood, Special Permits for any apartment type buildings in R3 must be approved in a public meeting where community comments may be heard. This is regardless of whether the approving body is the Zoning Board or the City Council.

The point here is that any introduction of apartment type buildings should be seen as a decision that affects the whole community and that deserves full public review.

Proposal 5: To moderate the development of apartment type buildings, replace “500 linear feet” in the proposed apartment type building restrictions with “250 linear feet”. This stretches out the time line for the spread of apartment type buildings.

Proposal 6: Cap the number of apartments type buildings in an R3 zone within any square of side 250 feet (1/20 mile). Within any such square, no more than 20% of the land area should have apartment type buildings. This will maintain the character of the neighborhood by retaining at least 80% of the buildings as 1, 2, and 3 unit houses.

Proposal 7: The side setback rules for an R3 house should require at least 10 feet on each side of the house. This will permit a drive way on one side of the house.

Proposal 8: The maximum height for buildings in R3 should be 3 stories. By the standard rules for residential buildings, one story is 12 feet. By special permit, one story may be up to 14 feet. This restriction therefore sets the maximum height to between 36 and 42 feet.

Proposals for Density and Diversity Throughout Newton

Proposal 9: Guarantee that density and diversity will be spread throughout the city of Newton by setting the zoning for all residential houses that front on major through streets in Newton to R3 regardless of the current characteristics of the existing housing.

Comments on Proposal 9:

If Newton has a genuine commitment to density and diversity then this commitment cannot be implemented only in the current 10-15% of the city that is R3 by the Pattern Book. There must be a mechanism to spread R3 more uniformly throughout the city.

The notion of a “major through street” deserves debate but here is a first pass at a list:

Watertown St, California St, Crafts St, Washington St, Tremont St, Commonwealth Ave, Beacon St, Waverley Ave, Grant Ave, Langley Rd, Centre St, Parker St, Walnut St, Lowell Ave, Waltham St, Chestnut St, Lexington St, Needham St, Dedham St, Brookline St.

If house on these streets are zoned as R3 then the seeds of density and diversity are planted throughout Newton.

Proposal 10: We have noted that it is legally permissible to convert single unit homes in R1 and R2 to 2 or 3 unit houses. Make the rules and processes for this more streamlined so that such conversion is easier.

Proposal 11: Allow a new building in R1 and R2 to be a 2 or 3 unit residence by Special Permit. Do not insist that all new buildings in R1 and R2 be single unit. This change is

consistent with the fact that conversion to 2 or 3 unit residences is already permitted.

Proposals Regarding Tear-Downs

Proposal 12: Change the law regarding grandfathering properties involving a tear-down. A tear-down should mean starting over. All new buildings should have to conform to current zoning requirements not to those regulations associated with a house that no longer exists.

Proposal 13: A house that is gutted should be viewed in the similar way to a tear-down. If during reconstruction most of the exterior siding is removed, the house should be viewed as a partial tear-down. The replaced house should be permitted to be built on the existing footprint. However, if the developer wishes to expand the footprint then the current zoning requirements should apply.

Appendix 1: Zoning Redesign Purposes Related to this Document

In section 1.2 of the Proposed Draft Zoning Ordinance, the city lists 22 purposes for the new zoning proposal. Here are the official purposes that most closely relate to this document.

“B. Coordinating development and redevelopment according to neighborhood, village, and other area plans developed collaboratively with community members.”

“D. Protecting and promoting the social, environmental, and economic benefits provided by a walkable development pattern.”

“E. Preserving and enhancing the existing character of Newton’s traditional walkable villages and neighborhoods, to continue to promote sense of community, respect the existing built form, and honor the historic development pattern inherent to the city.”

“F. Permitting redevelopment and infill construction that contributes to and preserves the character of Newton.”

“G. Guiding reinvestment in established neighborhoods that builds upon and reinforces their unique characteristics.”

“H. Promoting the adaptation and preservation of existing buildings.”

“I. Providing a range of housing types, unit sizes, and price points to accommodate the diverse household sizes and life stages of Newton residents at all income levels, paying particular attention to providing housing that is affordable to individuals and families with low and moderate incomes and housing that is accessible for those with disabilities.”

“J. Promoting a welcoming community where people of diverse demographics, origins, and income levels will be able to find a home and opportunity for success.”

Let us now comment on some of these purposes.

The fundamental dilemma of the first draft of the Zoning Redesign proposal is that purposes E and J are in tension:

Preserving and enhancing the existing character of Newton's traditional walkable villages and neighborhoods ...

Promoting a welcoming community where people of diverse demographics, origins, and income levels will be able to find a home ...

It is impossible to entirely preserve the past and at the same time be welcoming to new residents of diverse economic and social characteristics.

Our fundamental complaint that the burden of density and diversity will fall on R3 is based on the fact that R1 and R2 have been made almost untouchable in the proposed zoning.

Purpose J is related to the more extensive Purpose I:

Providing a range of housing types, unit sizes, and price points to accommodate the diverse household sizes and life stages of Newton residents at all income levels ...

Since R1 and R2 have been made almost untouchable, this housing will be done if at all in R3. Again, we believe this to be unfair.

Along these lines, it is particularly noteworthy that although ranch houses exist in R2, the new zoning regulations make it especially hard to build new affordable ranch houses in R2.

Concerning Purpose B:

Coordinating development and redevelopment according to neighborhood, village, and other area plans developed collaboratively with community members.

We hope that this means that critical decisions that affect a community will be taken at public meetings whose agenda items are announced at least a week in advance.

Appendix 2: Data Requests Related to Zoning

The data requests presented here should provide important information for citizens of Newton both in consideration of the Zoning Redesign proposal and after its implementation.

One of the important assumptions underlying the current plan for zoning reform is that the availability of more housing units in Newton will drive the cost-per-unit down and allow an increase in more affordable housing. The first two data requests concern whether or not this assumption is correct.

Data Request #1: What has the recent history of housing development in the Boston area shown us about the relationship between new building and rental costs?

Data Request #2: Looking only within Newton, and controlling by village, what is the relationship among rental unit size, age, and rental prices?

The development of buildings of type Apartment House and Small Apartment Building depends on the “500 linear feet” rule that permits new buildings of this type if there are at least 3 such buildings within 500 linear feet of the proposed location.

The application of the “500 linear feet” rule also depends on whether or not a 3-unit residence is its own building type [Three-Unit Residence] or if a 3-unit residence is subsumed into the two apartment house types.

We have strongly argued that a 3-unit residence must be its own building type: Three-Unit Residence. It will then be impossible to justify the development of larger apartment type buildings with 4 to 14 units based simply on the nearby location of several 3-unit residences.

It would be good to know what the current facts on the ground are concerning these kinds of building.

Data Request #3: Consider the existing residential buildings that fit into one of the following three categories:

- 3-unit residence

- “Apartment House” with 4 or more units

- “Small Apartment Building” with 4 or more units

For each category, provide a spreadsheet with:

- Street Address

- Ward

- #units

for each building in a residential district that fits the category. Ignore buildings in a village district.

The number of data lines in each spreadsheet will tell us the current proportions of the three types of houses in each ward. Further, using the street address, we have software tools that would enable us to create maps of the locations if that seems useful.

The current population density in various sections of Newton is also a question.

Data Request #4: What are the current population density patterns in Newton within and across all the villages? Can this data be represented on a map?

Finally, tear-downs are a concern all across Newton. The final request concerns the history of tear-downs in Newton during the past 5 years, that is, beginning January 2014.

Data Request #5: Create a spreadsheet with the following data for each tear-down that took place in Newton since January 2014:

- Street Address

- Ward

- Approval Date

- Before information:

- #units

- #floors

#square feet in footprint
#square feet of floorspace total
building type
After information:
#units
#floors
#square feet in footprint
#square feet of floorspace total
building type

This data about tear-downs in Newton would place all discussions about tear-downs on a much more factual basis.